

FOREIGN WORKERS IN THE WEST: THE REGULATION OF MIGRANT “UNFREEDOM” IN SASKATCHEWAN

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Migrant workers are among the most vulnerable workers in Canada, as their precarious residency status heightens their risk of exploitation and abuse through withheld wages, unpaid overtime, or having their job description changed, among other means. This creates a situation of “unfreedom,” wherein migrant workers are unable to fully exercise their rights as workers in a “free” labour market due to the threat of dismissal and subsequent deportation.

To curb such abuses, the federal and provincial governments have enacted legislation to protect the rights of migrant workers, with Saskatchewan’s Foreign Worker Recruitment and Immigration Services Act (FWRISA) being among the most robust to date. The FWRISA features a licensing program for recruiters and employers; makes provisions for the assessment of fines and, in severe cases, criminal charges; and provides a mechanism for harmonizing the enforcement of basic employment standards with migrant rights. While the FWRISA is well-intentioned and effective, some suggest that Canada’s foreign worker regime functions to further institutionalize “unfreedom” among migrants. To answer this question Dr. Andrew Stevens of the Hill and

Levene Schools of Business conducted a series of interviews with key informants and examined government documents and reports to analyze how the FWRISA has been applied and whether it has functioned as intended.

Stevens’ findings revealed that, while enforcement protocols tend to be applied equally across offending parties, leniency is often extended to employers who unknowingly violate provincial and federal legislation, or when there are extenuating circumstances. For instance, one hotel manager relocated migrant workers to another city in the interest of ensuring they remained gainfully employed as business slowed in the community. Since no evidence of malicious intent or coercion was discovered, the employer was allowed to retain their license, but was required to comply with additional reporting protocols. In total, only 10 employers have had their licenses suspended since the FWRISA came into effect, which represents only a small fraction of Saskatchewan’s 3,463 registered employers.

Additionally, recruiters play a key role in constructing migrant worker precarity by pressuring—or outright defrauding—employers into hiring unqualified workers, thus placing them at risk of deportation after their

arrival. While egregious violations can result in license suspension or loss, only two such cases have been reported publicly, with the remainder of offenders being quietly removed from the list of certified agents. Furthermore, recruiters in other countries are especially problematic, as they operate outside the jurisdiction of federal and provincial legislation and, therefore, their regulatory mechanisms (i.e., fines, prosecution, etc.).

Ultimately, the findings indicated that compliance is preferred over financial penalties such as fines, despite the prevalence of particular infractions across certain industries. However, the FWRISA has also proven to be at least somewhat effective at establishing legislative and compliance mechanisms to control who can facilitate entry into the province through the Saskatchewan Immigration Nomination Program. Moreover, the wage rates, hours of work, and standard employment provisions in the FWRISA often exceed the protections available to permanent residents and citizens. Thus, while flawed, the FWRISA is a necessary counterweight to the precarious status that continues to define migrant labour in Saskatchewan.



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Stevens, A. (2022). Foreign workers in the West: The regulation of migrant unfreedom in Saskatchewan. *Canadian Review of Sociology*. 1-16. <http://doi.org/10.1111/cars.12395>